IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

-

WRIT PETITION NO : 5765 of 2004

Between:

A.Venku Reddy, S/o of Rmana Reddy,
Correspondent, M.K.R.High School,

Indukurept Mandal, Nellore Dist.

..... PETITIONER

AND

1 The Commissioner & Director of School Education,
A.P. Hyderabad.
2 The District Educational Officer,
Nellore Dist.
3 Magunta Kota Reddy High School Committee,

Rep. by its Secretary, Mr. M. Chandrasekhar Reddy,
R/o. 3-C, Magunta Layout, Balaji Minor Apartments, Nellore.
(R-3 is impleaded as per Court Order dated 12.8.2004

in WPMP. No. 12559 of 2004.)
4 S.K. Musthafa S/o. Kalisha, Jr. Assistant of
M.K.R. High School, Indukurpet, Nellore District.

(R4 is impleaded as per court order dated 14-10-2004 in
WPMP No.23823 of 2004)

..... RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction particularly one in the nature of Writ of Mandamus declaring the proceedings in Rc.No.5790/B6/2002, dated 5/07/2003 and proceedings in Rc.No.320/B6/2003, dated 15/10/2003 as illegal, arbitrary and contrary to rules and set aside the same and consequently direct the respondents to restore the statue of the petitioner as correspondent of M.K.R. High School, Indukurpet, Nellore District.

Counsel for the Petitioner: MR.Y.S.VENKATA RAO

Counsel for the Respondent Nos.1 & 2: G.P. FOR

SCHOOL EDUCATION

Counsel for the Respondent No.3: M. Venkatanarayana

Counsel for the Respondent No.4: K. Ananda Rao

The Court made the following

ORDER:

Heard the learned counsel appearing for both the parties.

The petitioner has been discharging the functions of the Correspondent of M.K.R. High School, Indukurpet Mandal, Nellore District, pursuant to the Proceedings No.3240/B6/96, dated 04-07-1996 of the District Educational Officer, Nellore. Pursuant to the orders of the G.O.Ms.No.8, dated 30-01-2003 permitting the Managements of private aided educational institutions in the State to fill up the vacant aided posts of teaching and non-teaching staff, the Management of M.K.R. High School has applied for permission to fill up certain existing vacancies. Pursuant to the said application, the second respondent has accorded permission vide proceedings in RC No.5386/B6/2002, dated 02-06-2003 to fill up certain teaching and non-teaching vacancies. By proceedings dated
23-06-2003, the second respondent has also nominated the Deputy Educational Officer as his nominee as member of Staff Selection Committee.

It is stated that one Mr. Chandra Sekhar Reddy,
the Secretary of the third respondent herein, who claims to have been elected as Correspondent and who has nothing to do with the affairs of the said school, was interfering with the Management of the school and he has filed O.P.No.454 of 2003 on the file of the II Additional District Judge, Nellore, against the petitioner herein challenging the continuance of the petitioner herein as Correspondent of the said school.

The II Additional District Judge, Nellore, issued an interim injunction on 03-07-2003 directing the petitioner not to make any appointments in the said school until further

orders. Pursuant to the said injunction order in the said O.P., the third respondent made a representation before the second respondent stating that the II Additional District Judge, Nellore, by order dated 03-07-2003 in I.A.No.683 of 2003 in O.P.No.454 of 2003 restrained the petitioner herein from functioning as correspondent of M.K.R. High School, and also restrained him from participating in the selection process to be undertaken by the Staff Selection Committee in connection with filling-up of teaching and non-teaching staff. Pursuant to the said injunction orders in the O.P. and also basing on the application of the third respondent, the second respondent passed the impugned order dated 05-07-2003, requesting the Staff Selection Committee of M.K.R. High School, not to declare the results of the candidates after completion of the selection process scheduled to be held on 06-07-2003 and to keep the results and other related material under the safe custody of Sri M.A.Salam, Deputy Educational Officer, Gudur, who is a nominee of the second respondent, until further orders. Further, the second respondent passed orders dated 15-10-2003 making alternate arrangements by appointing Deputy Educational Officer, Nellore, as a Special Officer to M.K.R. High School, Indukurpet, for drawal and disbursement of salaries of the staff of the said School, subject to the approval of the Commissioner and the Director of School Education, Andhra Pradesh, Hyderabad.

The petitioner, challenging these two orders, stated that the said injunction order was vacated by the learned
II Additional District Judge, Nellore, by order dated 31-12-2003 in I.A.No.683 of 2003 in O.P.No.454 of 2003. Questioning the said order, the third respondent herein filed C.M.A.No.303 of 2004 and this Court by order dated 10-02-2004, dismissed the C.M.A. directing the Court below to dispose of the main O.P.
as expeditiously as possible.

The learned counsel for the petitioner submits that the whole basis for passing the impugned orders dated
05-07-2003 and 15-10-2003 is only due to the injunction orders passed the II Additional District Judge, Nellore, dated 03-07-2003 made in I.A.No.683 of 2003 and the said injunction orders have been vacated by the subsequent orders dated 31-12-2003 and as the said vacation orders have become final by dismissal of the C.M.A. No.303 of 2004 pending disposal of the O.P., the said impugned orders are unsustainable and are liable to be set aside.

The learned counsel for the respondents 3 and 4 submit that there are independent allegations pending against the petitioner and an enquiry has been ordered against him and therefore, he cannot be allowed for functioning as a Correspondent in the said school.

Having regard to the facts and circumstances of the case, and for the aforesaid reasons, I am of the opinion that the enquiry pending against the petitioner pursuant to the allegations made against him, are nothing to do with the passing of the impugned orders and the impugned orders are made only based on the injunction order of the Court below, which was vacated and therefore, as there is no injunction restraining the petitioner herein from functioning as a Correspondent of the said school, the impugned orders are liable to be set aside. If there are allegations against the petitioner, it is always open for the competent authority to take action against him in accordance with the provisions of Section 24 of the A.P. Education Act.

Accordingly, the Writ Petition is allowed and the impugned orders dated 05-07-2003 and 15-10-2003 are set aside. Further, it is made clear that the enquiry, already said to have been initiated against the petitioner on certain other allegations, are nothing to do with the impugned orders and it is always open for the respondents 1 & 2 to proceed against the petitioner basing on the outcome of the enquiry. No costs.

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V. ESWARAIAH, J

05th November, 2004

lsn/Rkk

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, the Fifth day of November, Two Thousand and Four.

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1 The Commissioner & Director of School Education,
Andhra Pradesh, Hyderabad.
2 The District Educational Officer,
Nellore District.
3 Sri M. Chandra Sekhar Reddy, Secretary,

Magunta Kota Reddy High School Committee,

R/o. 3-C, Magunta Layout, Balaji Minor Apartments, Nellore.
4. Two CCs to G.P. for School Education, High Court Buildings, Hyderabad
(OUT).

5. Two CD copies.